



- adjusting the definition of "life expectancy period" to account for leap years in calculations, and amending the pension transfer balance cap rules to provide credits and debits when these products are paid off in instalments;
- adjusting the transfer balance cap valuation rules for defined benefit pensions to deal with certain pensions that are permanently reduced after an initial higher payment;
- correcting a valuation error under the transfer balance cap rules for market-linked pensions where a pension is commuted and rolled over, or involved in a successor fund transfer;
- making changes to ensure that death benefit rollovers involving insurance proceeds remain tax-free for dependants.

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## CGT on grant of easement or licence

Taxation Determination TD 2018/15, issued on 31 October 2018, considers the capital gains tax (CGT) consequences of granting an easement, profit à prendre or licence over an asset.

In the ATO's view, CGT event D1 (creating contractual or other rights) rather than CGT event A1 (disposing of an asset) happens when any of the following rights are granted over an asset:

- an easement, other than one arising by operation of the law;
- a right to enter and remove a product or part of the soil from a taxpayer's land (a profit à prendre); or
- a licence (which does not confer the exclusive right to possess the land).

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## First Home Super Saver scheme and downsizer super contributions: ATO guidance

In November 2018, the ATO issued a Super Guidance Note to provide people with general information about how the First Home Super Saver (FHSS) scheme works. The guidance note explains who is eligible to use the scheme, the kind of contributions that can be made and then released from super for buying a first home, how to apply to the ATO for a FHSS determination, and the requirement to purchase a house.

The ATO also issued guidance on the recently enacted downsizer superannuation contribution measures, which allow people aged over 65 to contribute the proceeds from selling certain property into their super.

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## ATO scam alert: fake demands for tax payments

Although tax time 2018 is over, the ATO has warned taxpayers and their agents to remain on high alert for tax scams. Scammers are growing increasingly sophisticated and hope to exploit vulnerable people, often using aggressive tactics to swindle people out of their money or personal information.

Be wary if anyone contacts you demanding payment of a tax debt that you didn't know about. The ATO will never ask you to make a payment into an ATM or using gift or pre-paid cards such as iTunes and Visa cards, and will never you to deposit funds into a personal bank account.

**TIP:** Scammers have been known to impersonate tax agents as well as ATO staff. If you have any doubts about the legitimacy of a phone call or other communication, you can call the ATO directly (toll free) on 1800 888 540.

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## Government to establish \$2 billion fund for small business lending

The Government has announced that it will establish a \$2 billion Australian Business Securitisation Fund and an Australian Business Growth Fund to provide longer-term equity funding for small businesses.

Treasurer Josh Frydenberg has said some small businesses currently find it difficult to obtain finance on competitive terms unless it is secured against real estate. To overcome this, the proposed Australian Business Securitisation Fund will invest up to \$2 billion in the securitisation market, providing additional funding to smaller banks and non-bank lenders to on-lend to small businesses on more competitive terms.

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## ATO information-sharing: super assets in family law proceedings

Superannuation is often the most significant asset in a separated couple's property pool, particularly for low-income households with few assets. Parties to family law proceedings are already legally required to disclose all of their assets to the court, including superannuation, but in practice parties may forget, or deliberately withhold, information about their super assets.

The Government has announced an electronic information-sharing mechanism to be established between the ATO and the Family Law Courts to allow superannuation assets held by relevant parties during family law proceedings to be identified swiftly and more accurately from 2020. This measure was included as part of a broader financial support package for women announced on in November.

**Important:** Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.